

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.899 OF 2016

Minal N. Morjaria

.... Petitioner

Vs.

Municipal Corporation of Greater
Mumbai & Others

.... Respondents

Mr. Amol Bavare i/by Pragnya Legal for the Petitioner.

Ms Sheetal Metakari for Respondent Nos.1 to 3.

Mr. Rohit Pawaskar i/by Mr. Sandeep R. Waghmare
for Respondent Nos.5 & 6.

Ms Jyoti Chavan, AGP, for Respondent No.9.

CORAM: S.C. DHARMADHIKARI &
B.P. COLABAWALLA, JJ.

DATE : MARCH 18, 2019

P.C:

1. After the order of 6-6-2017 on this petition, the Municipal Corporation of Greater Mumbai through its staff at “D” Ward has carried out an inspection of the premises and thereafter the Municipal Advocate says that a notice under Section 351 of the Mumbai Municipal Corporation Act, 1888 has been issued. That notice is issued on 8-5-2018. It calls upon the

noticee, and in this case respondent Nos.5 and 6, to show cause as to why the structure/construction should not be demolished.

2. On receipt of the papers, including a copy of the notice, the said respondents have filed their replies and now the matter is before the Competent Authority.

3. It is assured that the Competent Authority will pass the necessary orders and in accordance with law within a period of four (4) weeks from today.

4. In the light of this statement made by the Advocate for the Municipal Corporation, which is accepted as an undertaking to this Court, the writ petition is disposed of. We clarify that this Court has not examined the merits of the rival contentions and they are open for being urged during the course of adjudication of the notice under Section 351.

5. We expect the Municipal Corporation to take its notice and the order to a logical conclusion for what we have been finding and routinely is that in the event an order of

demolition is passed by the Municipal Corporation, it is not implemented and given effect to for decades altogether. It is forcing the litigant, who made the complaint, to once again come to this Court and seek a direction to the authorities to give effect to their own orders. This has to be avoided at all costs and the Municipal Commissioner/Additional Municipal Commissioner must set up a mechanism whereunder they will take a periodical survey and review all such cases and demolition orders. We hope and trust that in the event any order of demolition is passed that will be given effect to expeditiously.

6. The writ petition is disposed of accordingly with no order as to costs.

(B.P. COLABAWALLA, J.)

(S.C. DHARMADHIKARI, J.)